

Political pursuit of religion

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People, and churches, are free to believe what they like, but not to do as they like.

On Tuesday evening this week the independent Senator from South Australia, Nick Xenophon, launched a swingeing attack on the Church of the New Faith, better known as the Scientologists, branding them “a criminal organisation” from within the privileges of the Senate. Former members wrote to the Senator detailing alleged abuses within the Church, which the Senator has referred to the relevant police authorities.

Senator Xenophon is calling for a parliamentary inquiry into the Scientologists and their tax-exempt status. He told the Senate: “I also believe the activities of this organisation should be scrutinized by parliament because Australian taxpayers are, in effect, supporting Scientology through its tax-exempt status. I say to all Australians: as you fill in your tax return next July or August, ask yourself how you feel knowing that you are paying tax and yet this criminal organisation is not.

“Do you want Australian tax exemptions to be supporting an organisation that coerces its followers into having abortions? Do you want to be supporting an organisation that defrauds, that blackmails, that falsely imprisons? Because, on the balance of evidence provided by victims of Scientology, you probably are.”

The next day Kevin Rudd intervened, saying: “These are grave allegations he is making. Many people in Australia have real concerns about Scientology. I share some of those concerns.

“But let us proceed carefully and look carefully at the material he has provided before we make a decision on further parliamentary action.”

The Prime Minister’s intervention raised my eyebrows. So I revisited the 1983 judgment of the High Court in *Church of the New Faith v Commissioner of Payroll Tax (Victoria)*.

The question as to whether Scientology is a religion was settled in the 1983 case. Scientology is a religion and its practice is protected under section 116 of the Constitution. The Church of Scientology is entitled to the same tax exemptions enjoyed by all religions, not the least Rudd’s Anglicans and my Lutherans.

There is nothing the government or the parliament can do to withdraw the Church of Scientology’s status as a religion. Under our constitutional structure, it is the High Court that has the function of ruling whether Scientology is a religion and this it has done.

In their joint judgment, former chief justices Anthony Mason and Gerard Brennan made clear the inappropriateness of political leaders interfering with religious freedom: “Under our law, the state has no prophetic role in relation to religious belief; the state can neither declare supernatural truth nor determine the paths through which the human mind must search in a quest for supernatural truth.”

As to whether the teachings of Lafayette Ronald Hubbard make for a compelling religion or not, justices Mason and Brennan were clearly not credulous while maintaining a scrupulous objectivity, when they explained: “Yet charlatanism is a necessary price of religious freedom, and if a self-proclaimed teacher persuades others to believe in a religion which he propounds, lack of sincerity or integrity on his part is not incompatible with the religious character of the beliefs, practices and observances accepted by his followers.”

If the allegations made by those who have petitioned Xenophon have substance, then we have a full array of authorities that are charged with responsibilities in relation to offences under the criminal law, of corporate misconduct and other potential breaches of laws and regulations. Of course the appropriate body to deal with the allegations publicised by Xenophon is the police. If the Church of Scientology or its members have engaged in criminal conduct, then these should be pursued under the criminal laws of our country.

Whether or not it is appropriate for individual politicians to use the privileges of parliament to publicise allegations of this sort is debatable.

What I do not think is debatable is whether politicians should be able to harness the committees of parliament to pursue a religion in the way proposed by Xenophon. This would amount to persecution and an illiberal denial of religious freedom.

Whatever motivations Rudd may have to ally himself with Xenophon on this issue, he should give no succour to the proposal for a parliamentary inquiry.

The only solution to the senator's concerns about taxation treatment is for the High Court decision to be revisited, for the Constitution to be amended to enable discriminatory treatment of religions, or for taxation exemptions to be withdrawn from religious organisations. If tax and any other exemptions are to be withdrawn from the Church of Scientology, then the same will need to be done to all the other religions that enjoy these amenities.

Xenophon closed his speech to the Senate saying, "In the past, Scientology has claimed that those who question their organisation are attacking the group's religious freedom. It is twisted logic, to say the least.

"Religious freedom did not mean the Catholic or Anglican churches were not held accountable for crimes and abuses committed by their priests, nuns and officials, albeit belatedly. Ultimately, this is not about religious freedom. In Australia there are no limits on what you can believe. But there are limits on how you can behave. It is called the law, and no one is above it."

The good senator should pause and reflect on his closing statement: our elected representatives are not above the law and they have no right to use parliament to pursue religious organisations contrary to section 116 of the Australian Constitution.

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